

1 HB119
2 78980-1
3 By Representative Robinson (J)
4 RFD: Judiciary
5 First Read: 10-JAN-06
6 PFD: 01/05/2006

SYNOPSIS: Under existing law, a person convicted of the most serious offense for trafficking in illegal drugs and sentenced to life imprisonment without parole is not subject to a fine.

Under existing law, a person convicted of possession of over 4,000 but less than 10,000 capsules or pills of hydromorphone is subject to a fine of \$100,000.

This bill would require a person convicted of the most serious offense for trafficking in illegal drugs and sentenced to life imprisonment without parole to pay a fines as specified.

This bill would increase the fine for a person convicted of possessing that amount of hydromorphone to \$250,000.

This bill would make it a crime for a person who knowingly sells, manufactures, delivers or brings into this state, or who is knowingly in actual or constructive possession of 3,4-methlyenedioxy methamphetamine.

1 Amendment 621 of the Constitution of Alabama
2 of 1901 prohibits a general law whose purpose or
3 effect would be to require a new or increased
4 expenditure of local funds from becoming effective
5 with regard to a local governmental entity without
6 enactment by a 2/3 vote unless: it comes within one
7 of a number of specified exceptions; it is approved
8 by the affected entity; or the Legislature
9 appropriates funds, or provides a local source of
10 revenue, to the entity for the purpose.

11 The purpose or effect of this bill would be
12 to require a new or increased expenditure of local
13 funds within the meaning of Amendment 621. However,
14 the bill does not require approval of a local
15 governmental entity or enactment by a 2/3 vote to
16 become effective because it comes within one of the
17 specified exceptions contained in Amendment 621.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 To amend Section 13A-12-231, Code of Alabama 1975,
24 relating to trafficking in illegal drugs; to require a person
25 convicted of trafficking in illegal drugs and sentenced to
26 life imprisonment without parole to pay a fine; to increase
27 the fine for a person convicted of possessing a certain amount

1 of hydromorphone; to make it a crime for a person who
2 knowingly sells, manufactures, delivers, or brings into this
3 state, or who is knowingly in actual or constructive
4 possession of, 3,4-methylenedioxy methamphetamine, and
5 5-methoxy-3,4-methylenedioxy methamphetamine; and in
6 connection therewith would have as its purpose or effect the
7 requirement of a new or increased expenditure of local funds
8 within the meaning of Amendment 621 of the Constitution of
9 Alabama of 1901.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Section 13A-12-231, Code of Alabama 1975,
12 is amended to read as follows:

13 "§13A-12-231.

14 "Except as authorized in Chapter 2, Title 20:

15 "(1) Any person who knowingly sells, manufactures,
16 delivers, or brings into this state, or who is knowingly in
17 actual or constructive possession of, in excess of one kilo or
18 2.2 pounds of any part of the plant of the genus Cannabis,
19 whether growing or not, the seeds thereof, the resin extracted
20 from any part of the plant, and every compound, manufacture,
21 salt, derivative, mixture, or preparation of the plant, its
22 seeds, or resin including the completely defoliated mature
23 stalks of the plant, fiber produced from the stalks, oil, or
24 cake, or the completely sterilized samples of seeds of the
25 plant which are incapable of germination is guilty of a
26 felony, which felony shall be known as "trafficking in
27 cannabis." Nothing in this subdivision shall apply to samples

1 of tetrahydrocannabinols including, but not limited to, all
2 synthetic or naturally produced samples of
3 tetrahydrocannabinols which contain more than 15 percent by
4 weight of tetrahydrocannabinols and which do not contain plant
5 material exhibiting the external morphological features of the
6 plant cannabis. If the quantity of cannabis involved:

7 "a. Is in excess of one kilo or 2.2 pounds, but less
8 than 100 pounds, the person shall be sentenced to a mandatory
9 minimum term of imprisonment of three calendar years and to
10 pay a fine of twenty-five thousand dollars (\$25,000).

11 "b. Is 100 pounds or more, but less than 500 pounds,
12 the person shall be sentenced to a mandatory minimum term of
13 imprisonment of five calendar years and to pay a fine of fifty
14 thousand dollars (\$50,000).

15 "c. Is 500 pounds or more, but less than 1,000
16 pounds, the person shall be sentenced to a mandatory minimum
17 term of imprisonment of 15 calendar years and to pay a fine of
18 two hundred thousand dollars (\$200,000).

19 "d. Is 1,000 pounds or more, the person shall be
20 sentenced to a mandatory term of imprisonment of life without
21 parole, and to pay a fine of two hundred fifty thousand
22 dollars (\$250,000).

23 "(2) Any person who knowingly sells, manufactures,
24 delivers, or brings into this state, or who is knowingly in
25 actual or constructive possession of, 28 grams or more of
26 cocaine or of any mixture containing cocaine, described in
27 Section 20-2-25(1), is guilty of a felony, which felony shall

1 be known as "trafficking in cocaine." If the quantity
2 involved:

3 "a. Is 28 grams or more, but less than 500 grams,
4 the person shall be sentenced to a mandatory minimum term of
5 imprisonment of three calendar years and to pay a fine of
6 fifty thousand dollars (\$50,000).

7 "b. Is 500 grams or more, but less than one kilo,
8 the person shall be sentenced to a mandatory minimum term of
9 imprisonment of five calendar years and to pay a fine of one
10 hundred thousand dollars (\$100,000).

11 "c. Is one kilo, but less than 10 kilos, then the
12 person shall be sentenced to a mandatory minimum term of
13 imprisonment of 15 calendar years and to pay a fine of two
14 hundred fifty thousand dollars (\$250,000).

15 "d. Is 10 kilos or more, the person shall be
16 sentenced to a mandatory term of imprisonment of life without
17 parole, and to pay a fine of three hundred thousand dollars
18 (\$300,000).

19 "(3) Any person who knowingly sells, manufactures,
20 delivers, or brings into this state, or who is knowingly in
21 actual or constructive possession of, four grams or more of
22 any morphine, opium, or any salt, isomer, or salt of an isomer
23 thereof, including heroin, as described in Section 20-2-23(2)
24 or Section 20-2-25(1)a., or four grams or more of any mixture
25 containing any such substance, is guilty of a felony, which
26 felony shall be known as "trafficking in illegal drugs." If
27 the quantity involved:

1 "a. Is four grams or more, but less than 14 grams,
2 the person shall be sentenced to a mandatory minimum term of
3 imprisonment of three calendar years and to pay a fine of
4 fifty thousand dollars (\$50,000).

5 "b. Is 14 grams or more, but less than 28 grams, the
6 person shall be sentenced to a mandatory minimum term of
7 imprisonment of 10 calendar years and to pay a fine of one
8 hundred thousand dollars (\$100,000).

9 "c. Is 28 grams or more, but less than 56 grams, the
10 person shall be sentenced to a mandatory minimum term of
11 imprisonment of 25 calendar years and to pay a fine of five
12 hundred thousand dollars (\$500,000).

13 "d. Is 56 grams or more, the person shall be
14 sentenced to a mandatory term of imprisonment of life without
15 parole, and to pay a fine of six hundred thousand dollars
16 (\$600,000).

17 "(4) Any person who knowingly sells, manufactures,
18 delivers, or brings into this state, or who is knowingly in
19 actual or constructive possession of 1,000 or more pills or
20 capsules of methaqualone, as described in Section 20-2-1, et
21 seq., is guilty of a felony, which felony shall be known as
22 "trafficking in illegal drugs." If the quantity involved:

23 "a. Is 1,000 pills or capsules, but less than 5,000
24 pills or capsules, the person shall be sentenced to a
25 mandatory minimum term of imprisonment of three calendar years
26 and pay a fine of fifty thousand dollars (\$50,000).

1 "b. Is 5,000 capsules or more, but less than 25,000
2 capsules, that person shall be imprisoned to a mandatory
3 minimum term of imprisonment of 10 calendar years and pay a
4 fine of one hundred thousand dollars (\$100,000).

5 "c. Is 25,000 pills or more, but less than 100,000
6 pills or capsules, the person shall be sentenced to a
7 mandatory minimum term of imprisonment of 25 calendar years
8 and pay a fine of five hundred thousand dollars (\$500,000).

9 "d. Is 100,000 capsules or more, the person shall be
10 sentenced to a mandatory term of imprisonment of life without
11 parole.

12 " (5) Any person who knowingly sells, manufactures,
13 delivers or brings into this state, or who is knowingly in
14 actual or constructive possession of 500 or more pills or
15 capsules of hydromorphone as is described in Section 20-2-1,
16 et seq., is guilty of a felony which shall be known as
17 "trafficking in illegal drugs." If the quantity involved:

18 "a. Is 500 pills or capsules or more but less than
19 1,000 pills or capsules, the person shall be sentenced to a
20 mandatory term of imprisonment of three calendar years and to
21 pay a fine of fifty thousand dollars (\$50,000).

22 b. Is 1,000 pills or capsules or more, but less than
23 4,000 pills or capsules, the person shall be sentenced to a
24 mandatory term of imprisonment of 10 calendar years and to pay
25 a fine of one hundred thousand dollars (\$100,000).

26 "c. Is 4,000 pills or capsules or more but less than
27 10,000 pills or capsules, the person shall be sentenced to a

1 mandatory term of imprisonment of 25 calendar years and to pay
2 a fine of ~~one hundred thousand dollars (\$100,000)~~ two hundred
3 fifty thousand dollars (\$250,00).

4 "d. Is more than 10,000 pills or capsules, the
5 person shall be sentenced to a mandatory term of life in
6 prison without parole, and to pay a fine of five hundred
7 thousand dollars (\$500,000).

8 "(6) Any person who knowingly sells, manufactures,
9 delivers, or brings into this state, or who is knowingly in
10 actual or constructive possession of, 28 grams or more of
11 3,4-methylenedioxy amphetamine, 3,4-methylenedioxy
12 methamphetamine, or of any mixture containing
13 3,4-methylenedioxy amphetamine, or 3,4-methylenedioxy
14 methamphetamine is guilty of a felony, which felony shall be
15 known as "trafficking in illegal drugs." If the quantity
16 involved:

17 "a. Is 28 grams or more, but less than 500 grams,
18 the person shall be sentenced to a mandatory minimum term of
19 imprisonment of three calendar years and to pay a fine of
20 fifty thousand dollars (\$50,000).

21 "b. Is 500 grams or more, but less than one kilo,
22 the person shall be sentenced to a mandatory minimum term of
23 imprisonment of five calendar years and to pay a fine of one
24 hundred thousand dollars (\$100,000).

25 "c. Is one kilo, but less than 10 kilos, then the
26 person shall be sentenced to a mandatory minimum term of

1 imprisonment of 15 calendar years and to pay a fine of two
2 hundred fifty thousand dollars (\$250,000).

3 "d. Is 10 kilos or more, the person shall be
4 sentenced to a mandatory term of imprisonment of life without
5 parole, and pay a fine of five hundred thousand dollars
6 (\$500,000).

7 "(7) Any person who knowingly sells, manufactures,
8 delivers, or brings into this state, or who is knowingly in
9 actual or constructive possession of, 28 grams or more of
10 5-methoxy-3, 4-methylenedioxy amphetamine,
11 5-methoxy-3,4-methylenedioxy methamphetamine or of any mixture
12 containing 5-methoxy-3, 4-methylenedioxy amphetamine or
13 5-methoxy-3,4 methylenedioxy methamphetamine is guilty of a
14 felony, which felony shall be known as "trafficking in illegal
15 drugs" if the quantity involved:

16 "a. Is 28 grams or more, but less than 500 grams,
17 the person shall be sentenced to a mandatory minimum term of
18 imprisonment of three calendar years and to pay a fine of
19 fifty thousand dollars (\$50,000).

20 "b. Is 500 grams or more, but less than one kilo,
21 the person shall be sentenced to a mandatory minimum term of
22 imprisonment of five calendar years and to pay a fine of one
23 hundred thousand dollars (\$100,000).

24 "c. Is one kilo, but less than 10 kilos, then the
25 person shall be sentenced to a mandatory minimum term of
26 imprisonment of 15 calendar years and to pay a fine of two
27 hundred fifty thousand dollars (\$250,000).

1 "d. Is 10 kilos or more, the person shall be
2 sentenced to a mandatory term of imprisonment of life without
3 parole , and to pay a fine of five hundred thousand dollars
4 (\$500,000).

5 "(8) Any person who knowingly sells, manufactures,
6 delivers, or brings into this state, or who is knowingly in
7 actual or constructive possession of, four grams or more of
8 phencyclidine, or any mixture containing phencyclidine, is
9 guilty of a felony, which felony shall be known as
10 "trafficking in illegal drugs." If the quantity involved:

11 "a. Is four grams or more, but less than 14 grams,
12 the person shall be sentenced to a mandatory minimum term of
13 imprisonment of three calendar years and to pay a fine of
14 fifty thousand dollars (\$50,000).

15 "b. Is 14 grams or more, but less than 28 grams, the
16 person shall be sentenced to a mandatory minimum term of
17 imprisonment of five calendar years and to pay a fine of one
18 hundred thousand dollars (\$100,000).

19 "c. Is 28 grams or more, but less than 56 grams,
20 then the person shall be sentenced to a mandatory minimum term
21 of imprisonment of 15 calendar years and to pay a fine of two
22 hundred fifty thousand dollars (\$250,000).

23 "d. Is 56 grams or more, the person shall be
24 sentenced to a mandatory term of imprisonment of life without
25 parole, and to pay a fine of five hundred thousand dollars
26 (\$500,000).

1 "(9) Any person who knowingly sells, manufactures,
2 delivers, or brings into this state, or who is knowingly in
3 actual or constructive possession of, four grams or more of
4 lysergic acid diethylamide, of four grams or more of any
5 mixture containing lysergic acid diethylamide, is guilty of a
6 felony, which felony shall be known as "trafficking in illegal
7 drugs." If the quantity involved:

8 "a. Is four grams or more, but less than 14 grams,
9 the person shall be sentenced to a mandatory minimum term of
10 imprisonment of three calendar years and to pay a fine of
11 fifty thousand dollars (\$50,000).

12 "b. Is 14 grams or more, but less than 28 grams, the
13 person shall be sentenced to a mandatory minimum term of
14 imprisonment of 10 calendar years and to pay a fine of one
15 hundred thousand dollars (\$100,000).

16 "c. Is 28 grams or more, but less than 56 grams, the
17 person shall be sentenced to a mandatory minimum term of
18 imprisonment of 25 calendar years and to pay a fine of five
19 hundred thousand dollars (\$500,000).

20 "d. Is 56 grams or more, the person shall be
21 sentenced to a mandatory term of imprisonment of life without
22 parole, and a fine of six hundred thousand dollars (\$600,000).

23 "(10) Any person who knowingly sells, manufactures,
24 delivers or brings into this state, or who is knowingly in
25 actual or constructive possession of, 28 grams or more of
26 amphetamine or any mixture containing amphetamine, its salt,
27 optical isomer, or salt of its optical isomer thereof, is

1 guilty of a felony, which felony shall be known as
2 "trafficking in amphetamine." If the quantity involved:

3 "a. Is 28 grams or more but less than 500 grams, the
4 person shall be sentenced to a mandatory minimum term of
5 imprisonment of three calendar years and to pay a fine of
6 fifty thousand dollars (\$50,000).

7 "b. Is 500 grams or more, but less than one kilo,
8 the person shall be sentenced to a mandatory minimum term of
9 imprisonment of five calendar years and to pay a fine of one
10 hundred thousand dollars (\$100,000).

11 "c. Is one kilo but less than 10 kilos, then the
12 person shall be sentenced to a mandatory minimum term of
13 imprisonment of 15 calendar years and to pay a fine of two
14 hundred fifty thousand dollars (\$250,000).

15 "d. Is 10 kilos or more, the person shall be
16 sentenced to a mandatory term of imprisonment of life without
17 parole, and to pay a fine of five hundred thousand dollars
18 (\$500,000).

19 "(11) Any person who knowingly sells, manufactures,
20 delivers, or brings into this state, or who is knowingly in
21 actual or constructive possession of, 28 grams or more of
22 methamphetamine or any mixture containing methamphetamine, its
23 salts, optical isomers, or salt of its optical isomers
24 thereof, is guilty of a felony, which felony shall be known as
25 "trafficking in methamphetamine." If the quantity involved:

26 "a. Is 28 grams or more but less than 500 grams, the
27 person shall be sentenced to a mandatory minimum term of

1 imprisonment of three calendar years and to pay a fine of
2 fifty thousand dollars (\$50,000).

3 "b. Is 500 grams or more, but less than one kilo,
4 the person shall be sentenced to a mandatory minimum term of
5 imprisonment of five calendar years and to pay a fine of one
6 hundred thousand dollars (\$100,000).

7 "c. Is one kilo but less than 10 kilos, then the
8 person shall be sentenced to a mandatory minimum term of
9 imprisonment of 15 calendar years and to pay a fine of two
10 hundred fifty thousand dollars (\$250,000).

11 "d. Is 10 kilos or more, the person shall be
12 sentenced to a mandatory term of imprisonment of life without
13 parole, and to pay a fine of five hundred thousand dollars
14 (\$500,000).

15 "(12) The felonies of "trafficking in cannabis,"
16 "trafficking in cocaine," "trafficking in illegal drugs,"
17 "trafficking in amphetamine," and "trafficking in
18 methamphetamine" as defined in subdivisions (1) through (11),
19 above, shall be treated as Class A felonies for purposes of
20 Title 13A, including sentencing under Section 13A-5-9.
21 Provided, however, that the sentence of imprisonment for a
22 defendant with one or more prior felony convictions who
23 violates subdivisions (1) through (11) of this section shall
24 be the sentence provided therein, or the sentence provided
25 under Section 13A-5-9, whichever is greater. Provided further,
26 that the fine for a defendant with one or more prior felony
27 convictions who violates subdivisions (1) through (11) of this

1 section shall be the fine provided therein, or the fine
2 provided under Section 13A-5-9, whichever is greater.

3 "(13) Notwithstanding any provision of law to the
4 contrary, any person who has possession of a firearm during
5 the commission of any act proscribed by this section shall be
6 punished by a term of imprisonment of five calendar years
7 which shall be in addition to, and not in lieu of, the
8 punishment otherwise provided, and a fine of twenty-five
9 thousand dollars (\$25,000); the court shall not suspend the
10 five-year additional sentence of the person or give the person
11 a probationary sentence."

12 Section 2. Although this bill would have as its
13 purpose or effect the requirement of a new or increased
14 expenditure of local funds, the bill is excluded from further
15 requirements and application under Amendment 621 because the
16 bill defines a new crime or amends the definition of an
17 existing crime.

18 Section 3. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.